

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DEBORAH M. LUMBARD,
Plaintiff,

v.

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA and STATE
STREET BANK AND TRUST
COMPANY,
Defendants

C.A. NO. 05-CV-11124PBS

**DEFENDANTS', THE PRUDENTIAL INSURANCE COMPANY OF AMERICA and
STATE STREET BANK AND TRUST COMPANY,
MOTION FOR SUMMARY JUDGMENT ON THE RECORD**

Now come the defendants, The Prudential Insurance Company of America and State Street Bank and Trust Company (hereinafter collectively referred to as "Prudential" unless otherwise specifically referred to as "State Street") pursuant to Rule 56(c) of the Federal Rules of Civil Procedure and Local Rule 7.1 and hereby moves this Honorable Court for an Order granting it summary judgment on all claims asserted by the Plaintiff in this action to recover disability benefits under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 100-1461.

In support of this Motion for Summary Judgment, and as more fully set forth in its memorandum of law filed herewith, Prudential states that an ERISA action where the arbitrary and capricious standard of review applies, summary judgment is a mechanism in which to tender the issues to the Court. Based on the substantial evidence contained in the administrative record which supported Prudential's final decision, Prudential is entitled to judgment as a matter of law.

WHEREFORE, the Prudential Insurance Company of America and State Street Bank and

Trust Company request that this Court grant summary judgment in their favor on all counts of the Plaintiff's Complaint.

Respectfully Submitted,

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA and STATE
STREET BANK AND TRUST COMPANY,
By Their Attorneys,

/s/ Carey Bertrand
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CERTIFICATE OF SERVICE

I, Carey L. Bertrand, hereby certify that a true copy of the foregoing *document* was served upon all counsel of record by forwarding a copy of the same, first class mail, postage prepaid on this 28th day of October 2005 to:

James T. Finnigan, Esq.
Rich May, a Professional Corporation
176 Federal Street
Boston, MA 02110

/s/ Carey Bertrand